cuted by B since it violated the condition in A's deed to B. *Held* that the heirs of B were not the proper persons to complain of such violation. *Kentland Coal & Coke Co.* v. *Keene,* (Ky. 1916) 183 S. W. 247.

It is assumed here that the condition in restraint of alienation for the life of the testator is good. Such a restraint, however, is generally held to be void. See 14 MICH. L. REV. 353. The court in the principal case based its decision upon the well-established rule that when a breach or non-performance of a condition annexed to the grant of a freehold estate occurs, the title conveyed is not void but is only voidable by the act of the grantor or his heirs. Such a question may arise in three ways. First, when the grantor by his deed imposes a condition subsequent and attempts to pass the right of entry to someone else by the same deed, it is the established rule that, though this is void as a condition, the court will give it effect as a conditional limitation and the gift over will take effect as an executory devise or a springing use. See *Newis* v. *Lark and Hunt,* 2 Plowd. Com. 403. But in view of the recent statutes allowing assignments of choses in action and providing that suits shall be brought in the name of the real party in interest, such assignments of the right of entry have been sustained in several states. See *Bouvier* v. *Ry. Co.,* 67 N. J. L. 281, 60 L. R. A. 750. Second, when the grantor by a subsequent instrument attempts to devise or grant this right of entry, it is held void at the common law, whether made before or after breach. See *Upington* v. *Corrigan,* 79 Hun. (N. Y.) 488, 37 L. R. A. 794; and *Trustees, etc.* v. *Venable,* 159 Ill. 215, 50 Am. St. Rep. 159. Third, when the grantor makes no attempt to transfer his right of entry, the universal rule is that the grantor and his heirs are the only ones entitled to a right of entry. See *Lewis* v. *Lewis,* 74 Conn. 632; *Board of Education, etc.* v. *Trustees, etc.,* 63 Ill. 204; *Osgood* v. *Abbott,* 58 Me. 73; *Mo. Hist. Society* v. *Academy of Science,* 94 Mo. 459; and *Phelps* v. *Chesson,* 34 N. C. 194. Dictum to this effect is found in *Adams* v. *Ore Knob Cooper Co.,* 4 Hughes 589. Only two cases have been found which question this doctrine: *Frazier* v. *Combs,* 140 Ky. 77; and *Pond Creek Coal Co.* v. *Runyan,* 161 Ky. 64. These two cases are expressly overruled by the principal case, so that the doctrine announced therein stands unquestioned.

FALSE IMPRISONMENT—DETENTION IN MINE.—Plaintiff contracted to work in defendant's coal mine for seven hours at a time. Defendant lowered the plaintiff, by means of an elevator, to the level where he was to work. Plaintiff, after working for about two hours, decided to work no longer and requested defendant's servant to raise him, by means of the elevator, to the surface. This, defendant's servant refused to do until seven hours after plaintiff had started work. Plaintiff sued defendant for false imprisonment. *Held* that defendant was under no legal obligation to convey plaintiff to the surface until the end of this seven hour period, and hence plaintiff had failed to make out a cause of action. *Herd* v. *Weardale Steel Coal & Coke Co. and others,* 84 L. J. K. B. 121.

The court in this case was of the opinion that since plaintiff had contracted to remain in defendant's mine for seven hours, the defendant was under no

liability to convey him to the surface any sooner. The court pointed out that defendant's elevator was no doubt busy hauling coal, other men, etc., and hence defendant could not be required to perform a service outside of its contract. The conclusion reached by the court here appears to be sound. In *Robertson* v. *Ferry Co.*, 79 L. J. P. C. 84, it was held that the plaintiff who had entered a gate to a ferry dock intending to be transported on a ferry had no right to demand that he be let back through the same gate, and hence it was not false imprisonment for the ferry company to refuse to let him through the gate. Plaintiff had contracted to be carried on defendant's ferry and not to be let back through the entering-gate of defendant's dock. A somewhat similar situation occurred in *Talcott* v. *Nat'l Exhibition Company*, 144 App. Div. (N. Y.) 337. Here the plaintiff had gone into the enclosure of a ball-park to purchase a ticket. Crowds of people were coming into the park through entrances and plaintiff was not allowed to go out by these entrances. An hour later he was conducted out of the field through an entrance leading into the club-house. Keeping the plaintiff in the ball-park for an hour was held to be false imprisonment. This case, however, is clearly distinguishable from the principal case, since in the principal case the only possible means of exit was one which was being used, while in the *Talcott* case it is not shown that the entrance through the club-house was being used at all. The principal case is supported by *Spoor* v. *Spooner*, 12 Met. (Mass.) 281.

HUSBAND AND WIFE—STATUTORY RIGHT AND INTEREST OF WIFE BY DESCENT WHILE HUSBAND IS ALIVE.—Defendant husband by fraudulent representations persuaded plaintiff, his wife, to sign a deed whereby her rights by descent in certain of his lands were released. The statutes of Maine (Laws of 1895, c. 157, § 2, R. S. c. 77 § 8) provide that in lieu of dower the husband's real estate shall descend to his wife upon his death, the quantity she takes being contingent upon the existence of issue or kin. *Held* that a bill in equity by the wife against her husband seeking to impress a trust *ex maleficio* upon a portion of the money in his hands derived from the sale of the land was properly sustained on demurrer. *Whiting* v. *Whiting*, (Me. 1916) 96 Atl. 500.

There are few cases wherein the rights of the wife under such statutes are determined, but inasmuch as the rights given the wife are in lieu of and analogous to dower, it is clear that the principles governing dower are applicable. There is great contrariety of judicial opinion as to the exact status of inchoate dower. Some of the courts have taken the view that inchoate dower is a mere possibility of acquiring an estate; that it can be taken away by the legislature while inchoate. *Moore* v. *City of New York*, 8 N. Y. 110. The court held in the case of *In Re Mary Ann Alexander*, 52 N. J. Eq. 96, that the legislature could not deprive an insane woman of inchoate dower. And it has been held in many cases that a husband can defeat his wife's dower by dedication or appropriation to public use. *Gwynne* v. *City of Cincinnati*, 3 Oh. St. 24, 17 Am. Dec. 576; *Duncan* v. *City of Terre Haute*, 85 Ind. 104; *Orrick* v. *City of Fort Worth*, (Tex. Civ. App.) 32 S. W. 443; *Venable* v. *Wabash Western R. Co.*, 112 Mo. 103, 20 S. W. 493, 18 L. R. A. 68; *Baker* v. *Atchison, etc., R. Co.*, 122 Mo. 396, 30 S. W. 301; *Randall* v. *Texas Cent. R.*